

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
v.)	No. 3:22-CR-88-TAV-DCP
)	
JARVIS D. HARPER,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or recommendation as may be appropriate. The parties appeared before the undersigned on March 10, 2023, for an evidentiary and motion hearing on Defendant's two dispositive motions [Docs. 20–21]. Assistant United States Attorneys Alan Scott Kirk and Russ Swafford appeared on behalf of the Government. Assistant Federal Defenders Jonathan A. Moffatt and Christopher Meadows represented Defendant Jarvis Harper, who was also present. At the conclusion of the evidence, defense counsel asked to file post-hearing briefs on the Motion to Suppress [Doc. 20].¹ The Court observed that a post-hearing briefing schedule, which allowed time for preparation of a transcript, would not leave time for ruling on the dispositive motions before the April 25, 2023 trial date. The parties agreed to a trial continuance and on a new trial date of August 22, 2023.

The Court finds a trial continuance is not opposed by either party and is necessary in this case. The Court also finds that the ends of justice served by granting a continuance outweigh the

¹ Defense counsel did not ask to file a post-hearing brief on the Motion to Dismiss [Doc. 21], but Mr. Meadows stated that Defendant would seek leave to file a supplement if new case law on this specific issue is filed. AUSA Kirk stated that the Government did not intend to file a post-hearing brief on the Motion to Dismiss.

interest of Defendant and the public in a speedy trial. 18 U.S.C. § 3161(h)(7)(A). The Court set a deadline of April 10, 2023, for Defendant's post-hearing brief, to allow time for preparation of a transcript of the evidentiary hearing. The Government's deadline to file a responding post-hearing brief is April 24, 2023. After receipt of post-hearing briefs, the Court will need time to prepare a report and recommendation. 18 U.S.C. § 3161(h)(1)(H). Thereafter, the parties will need time to file objections and respond to objections. Then, the District Judge will need time to rule on the dispositive motions. 18 U.S.C. § 3161(h)(1)(H). Once the litigation of pretrial motions is complete, the parties may need additional time to prepare for trial. The Court finds that a continuance is warranted to permit the litigation of pretrial motions and trial preparation. Thus, the Court finds that without a continuance, the parties would not have the reasonable time necessary to prepare for trial, even proceeding with due diligence. 18 U.S.C. § 3161(h)(7)(B)(iv).

Accordingly, the trial of this case is **CONTINUED** to **August 22, 2023**. The Court finds that all the time between the filing of Defendant's motions on January 6, 2023, and the new trial date of August 22, 2023, is fully excludable time under the Speedy Trial Act for the reasons set forth herein. *See* 18 U.S.C. § 3161(h)(1)(D), -(1)(H), & -(7)(A)-(B). The Court also sets a new schedule in this case, which is stated in detail below.

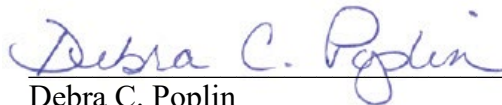
The Court **ORDERS** as follows:

- (1) The trial of this case is **CONTINUED** with the agreement of the parties;
- (2) The trial of this matter is reset to commence on **August 22, 2023, at 9:00 a.m.**, before the Honorable Thomas A. Varlan, United States District Judge;
- (3) All time between the filing of the dispositive motions on **January 6, 2023**, and the new trial date of **August 22, 2023**, is fully excludable time under the Speedy Trial Act for the reasons set forth herein;

- (4) The Defendant's deadline for filing a post-hearing brief is **April 10, 2023**. The Government's deadline for filing a responding post-hearing brief is **April 24, 2023**;
- (5) The deadline for filing a plea agreement in the record and for providing reciprocal discovery is **July 21, 2023**;
- (6) The parties are to appear before the undersigned for a final pretrial conference on **August 1, 2023, at 10:30 a.m.**;
- (7) The deadline for filing motions *in limine* is **August 7, 2023**; and
- (8) Requests for special jury instructions with appropriate citations to authority pursuant to Local Rule 7.4. shall be filed on or before **August 11, 2023**.

IT IS SO ORDERED.

ENTER:



Debra C. Poplin
United States Magistrate Judge